

2014 State Board of Accounts Clerks Conference

Criminal Code Changes and Other Topics

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Expungement Changes HEA 1155

HEA 1155 was
effective
March 26,
2014

| MARCH 2014 | | | | | | |
|-------------------|-----|-----|-----|-----|-----|-----|
| www.9calendar.com | | | | | | |
| SUN | MON | TUE | WED | THU | FRI | SAT |
| | | | | | | 1 |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| 30 | 31 | | | | | |

Expungement Changes HEA 1155



- The petition and order are now confidential IC 35-38-9-10(i)

Expungement Changes HEA 1155



- Administrative Rule 9(D)(3) requires all redactions be identified

Expungement Changes HEA 1155



- How can you follow both IC 35-38-9-10(i) and Administrative Rule 9(D)(3)?

Expungement Changes HEA 1155



- Trial Rule 5(G) Green paper
- CCS entries

Expungement Changes HEA 1155



- Petition Contents for arrests/juvenile adjudications
- Petition Contents for CM and Felonies

Expungement Changes HEA 1155



- Evidentiary Standard has changed
- Preponderance of the evidence

Expungement Changes HEA 1155



- Most petitions can only be filed in circuit or superior court in county of conviction
- Only expungement of arrest records can be filed in city/town court

Expungement Changes HEA 1155



- A person cannot waive the right to an expungement as part of a plea agreement

Expungement Changes

HEA 1155

Criminal History Sample Forms

The following forms are available in rich text format so they are editable a processing software. These are sample forms maintained by the Division Administration.

| Sample Form | It |
|--|----|
|  Petition and Order for Expungement of Juvenile Arrest Record | 3 |
|  Petition and Order for Expungement of Arrest Record | 3 |
|  Petition and Order for Expungement of Misdemeanor, Class D/Level 6 Felony Reduced to Misdemeanor | 3 |
|  Petition and Order for Expungement of Minor Class D/Level 6 Felony Conviction | 3 |
| Petition and Order for Expungement of Felony Conviction | 3 |

Model Petitions and Orders are available at www.in.gov

Juvenile Paternity Cases

SEA 19



- Effective 7/1/2014
- Are all JP cases now available to the public?

Juvenile Paternity Cases SEA 19



- All JP cases opened after 7/1/2014 are available to the public

Juvenile Paternity Cases SEA 19



- All JP cases closed before 7/1/2014 remain confidential unless they are redocketed

Juvenile Paternity Cases SEA 19

SPECIAL

- JP cases opened prior to 7/1/2014 that remain active after 7/1/2014 are special.

Juvenile Paternity Cases SEA 19

SPECIAL

- That part of the case made prior to 7/1/2014 is confidential, that part of the case made on/after 7/1/2014 is available to the public

Juvenile Paternity Cases SEA 19



- This is the Division's current understanding of the Court's position on JP case confidentiality but. . .

Juvenile Paternity Cases SEA 19



- Until the Court issues an amendment to Administrative Rule 9, this all could change.

Juvenile Paternity Cases SEA 19



- ▶ The Division will send you an advisory with the Court's final answer as soon as we have it.

Judgment Docket Books HEA 1347



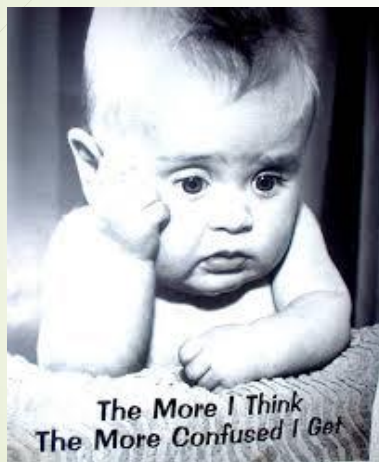
- ▶ The judgment docket book must contain all civil judgments in which one party owes money to another party and

Judgment Docket Books HEA 1347



- Any entry that is required by statute

Judgment Docket Books HEA 1347



- But not judgments where money is owed by a person to a state/county or gov't entity as a result of a criminal conviction or IF or OV

Judgment Docket Books HEA 1347



- Or judgments where a government entity is the sole creditor

Judgment Docket Books HEA 1347



- Except judgments for unpaid taxes



Judgment Docket Books HEA 1347

- What no longer gets listed:
- IF and OV cases
- Sole creditor is the government (except judgments for unpaid taxes)
- Judgments for “things” other than money



Judgment Docket Books HEA 1347

- What still gets listed:
- All civil judgments for money where creditor is not the government
- Orders for restitution and reimbursement

Judgment Docket Books HEA 1347



- Our county has more than one judgment docket book.

Judgment Docket Books HEA 1347



- Do these changes apply to all judgment docket books or just the circuit judgment docket book?

Judgment Docket Books HEA 1347



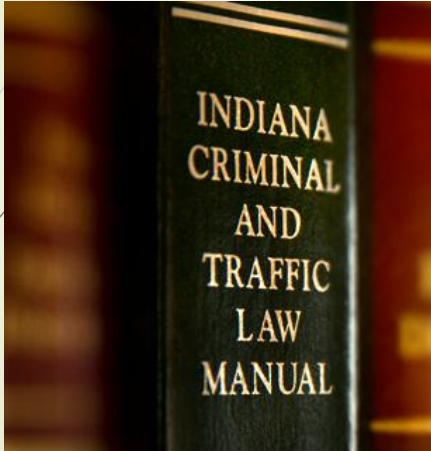
- The Division believes the changes apply to all judgment docket books maintained by the county.

Criminal Code Changes HEA 1006



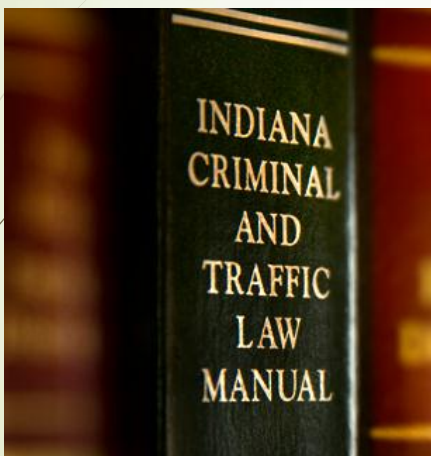
- Replaces the current four felony levels with six new felony levels

Criminal Code Changes HEA 1006



- Sentencing ranges and advisory sentences change

Criminal Code Changes HEA 1006



- No changes to misdemeanor classifications or penalties

Criminal Code Changes HEA 1006

- F1 – all Class A
- F2 – mostly Class A, some Class B
- F3 – mostly Class B, some Class A, A few Class C
- F4 – Mostly Class B, some Class C
- F5 – Mostly Class C, some Class D, a few Class B
- F6 – Mostly Class D, a few Class C, one Class B

Criminal Code Changes HEA 1006



- So, will FA, FB, FC, and FD disappear on July 1?

Criminal Code Changes HEA 1006



- No. We get to use the old felony levels AND the new felony levels starting July 1

Criminal Code Changes HEA 1006



- How will we tell which case type to use?

Criminal Code Changes HEA 1006



- Look at the date the crime took place

Criminal Code Changes HEA 1006



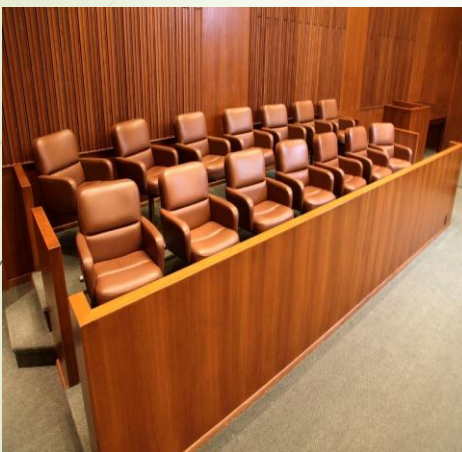
- Use the old felony case types for crimes committed before 7/1 and the new case types for crimes committed after 7/1

Criminal Code Changes HEA 1006

- The QCSR forms already have the new case types

| Quarterly Case Status Report Worksheet Criminal | | | | | | | | | | | |
|--|----------------------------------|----------------|----------------|----------------|----------------|--|--|--|--|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| MR | CF | FA | FB | FC | FD | F1 | F2 | F3 | F4 | F5 | F6 |
| Murder | Criminal Felony (pre 11/2002) | Class A Felony | Class B Felony | Class C Felony | Class D Felony | Felony 1 (starting July 1, 2014) | Felony 2 (starting July 1, 2014) | Felony 3 (starting July 1, 2014) | Felony 4 (starting July 1, 2014) | Felony 5 (starting July 1, 2014) | Felony 6 (starting July 1, 2014) |
| 1209 | 155 | 359 | 218 | 211 | 125 | 359 | 339 | 250 | 229 | 207 | 128 |

Criminal Code Changes HEA 1006



- Jury Size:
- MR and F1 through F5 – 12 jurors needed
- F6 – 6 jurors needed



Electronic Filing is coming!



- ▶ Jeff Wiese, Director, Trial Court Management
317-232-2542
- ▶ Administrative Manual web link:
<http://www.in.gov/judiciary/admin/2492.htm>
- ▶ Forms web link:
<http://www.in.gov/judiciary/2706.htm>